THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17759 of 1998

Dated 20-09-2007

Between:
R.Bhadragiri Rao.

..... PETITIONER

AND

The Nalgonda District Co-operative Central Bank Ltd., Nalgonda, rep.
By its General Manager & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17759 of 1998

O R D E R:

Aggrieved by the proceedings of the first respondent dated 26-12-1996 applying Rule 73 of the A.P.Co-operative Societies Rules, 1964 in determining the inter-se seniority among category-III employees of the Nalgonda Co-operative Central Bank, the present writ petition is filed.

The Collector/Chairman of the Nalgonda Cooperative Central Bank, vide proceedings dated 03-10-1979, appointed the petitioner and respondents 4 and 5. While Sri C.Yadagiri, learned counsel for the petitioner, would contend that these appointments were made on the basis of the merit of the candidates who appeared for selection, Sri P.Srinivas, learned counsel appearing on behalf of respondents 4 and 5, would contend to the contrary and submit that the appointment order merely reflects the alphabetical order in which the names of the selected candidates were arranged, that no reliance can be placed on the said appointment order and that the petitioner is not more meritorious than respondents 4 and 5.

Petitioner was shown in the integrated seniority list at Sl.No.12, whereas respondents 4 and 5 were shown at Sl.Nos.13 and 14. Thereafter, another provisional list was prepared vide proceedings dated 26-12-1996 and, after inviting objections, a final seniority list of category-III employees was prepared on 28-01-1997 whereby respondents 4 and 5 were shown above the petitioner. Petitioner's contention is that Rule 73 of the
A.P. Co-operative Societies Rules, 1964, (for short 'the Rules'), which requires inter-se seniority of employees from the Primary Agricultural Development Banks and employees of the District Cooperative Central Banks to be determined, and where employees

were appointed on the same day, the age of the candidate is required to be taken into consideration for determining the seniority, would have no application while determining the inter-se seniority of employees of the District Co-operative Central Bank.

Sri C.Yadagiri, learned counsel for the petitioner, would contend that it is only after the inter-se seniority list of employees of the Primary Agricultural Development Banks and District Co-operative Central Banks is separately prepared and finalized, that, in the process of integrating both cadres of employees of Primary Agricultural Development Banks and the District Co-operative Central Banks, and in determining their inter-se seniority, would Rule 73 apply and not in determining the inter-se seniority of employees all of whom belong to the District Co-operative Central Banks.

Both Sri T.Amarnath Goud, learned counsel for the respondent-bank and Sri P.Srinivas, learned counsel for respondents 4 and 5, would submit that in the absence of a specific rule in this regard, the bank has chosen to adopt the underlying principle in Rule 73 and apply it even while preparing the inter-se seniority list of the employees of the District Co-operative Central Bank.

Before examining the rival contentions, it is necessary to refer to Rule 73 (i) & (vi) of the A.P.Co-operative Societies Rules, 1964 which reads thus:

(i) The Employees in the erstwhile Primary Agricultural Development Banks shall be equated with the cadres in the Co-operative Central Bank as hereunder and after integration they shall be known by such designations, as specified below namely:-

Cadres in the erstwhile Primary Agricultural Development Banks	Equated Cadre in District Co-operative Central Banks
1. Manager and Secretary	Manager
2. Assistant Manager, Executive Officer.	This post will be kept as distinct fading category.
3. Engineering supervisor.	No equated post. This post will be kept as distinct category.
4.Accountant.	Accountant.

5.[Assistant Accountant, Supervisor, Typist. The post of erstwhile clerks which are existing prior to 08-09-1970.	Supervisor Clerk, Typist.]
6. Driver.	Driver.
7.----	Jamedar, Attendar to be kept as distinct category.
8. Peon, Watchman	Peon, Watchman.

(vi)(a) **Inter-se-seniority**:- "The inter-se-seniority of the erstwhile Primary Agricultural Development Bank employees and of the District Co-operative Central Bank employees in the equated cadres in each district shall be fixed by the General Managers, District Co-operative Central Bank on the basis of the dates of their appointment in the cadres in which they are working on regular basis including notional promotions. If the dates of such appointments happens to be the same, the seniority shall be fixed on the basis of the age, the elder being placed above the younger. However, in this process, the inter-se-seniority of the Primary Agricultural Development Bank personnel and the inter-se seniority of the District Co-operative Central Bank personnel shall not be disturbed."

(b) The General Manager, shall initiate action for fixation of inter-se seniority within six months of issue of order by Registrar of Co-operative Societies transferring the erstwhile Primary Agricultural Development Bank employees to the District Co-operative Central Banks and give opportunity to all concerned to file objections, if any, within one month of publication of the inter-se seniority and, after considering objections, issue the final list within four months.

The heading of Rule 73 itself indicates that the said rule applies only in the case of transfer of employees of erstwhile Primary Agricultural Development Banks to the service of the District Co-operative Central Banks. Rule 73(vi) prescribes the manner in which the inter-se seniority of the erstwhile Primary Agricultural Development Banks and District Co-operative Central Banks employees in the equated cadres in each district is to be fixed, and, while fixing the inter-se seniority in the equated cadres, if the date of appointment happens to be the same, the seniority is to be fixed on the basis of age, the elder being placed above the younger. Sub-rule (vi) makes it clear that, in this process, the inter-se seniority of District Co-operative Central Bank personnel shall

not be disturbed. It is clear therefrom that Rule 73 cannot be applied in determining the inter-se seniority of employees of District Co-operative Central Bank alone and it is only after the inter-se seniority of employees of both Primary Agricultural Development Banks and District Co-operative Central Bank personnel are separately determined on the basis of separate rules, and in the process of integrating both these cadres in the equated cadres in each district and in determining the inter-se seniority between these two distinct groups, would Rule 73 have any application.

The impugned proceedings dated 26-12-1996 of the first respondent indicates that, vide proceedings dated 20-01-1996, the seniority list of erstwhile Primary Agricultural Development Bank employees and District Co-operative Central Bank employees were communicated calling for objections. Pursuant to the objections received, a decision was taken in accordance with the provisions of Rule 73 and the guidelines of Registrar of Cooperative Societies were communicated with reference to the letter dated 13-12-1996 and, thereafter, the inter-se seniority of category III cadre was prepared. As noted above, Rule 73 has no application in determining the inter-se seniority of District Co-operative Central Bank personnel and, since the very basis of preparation of seniority list is rule 73, which has no application, the impugned proceedings dated 26-12-1996 must necessarily be set aside.

I do not see any reason to express any opinion on the submission of Sri P.Srinivas, learned counsel for respondents 4 and 5 that, in the absence of any rule, the underlying principle in Rule 73 of the Rules was made applicable in as much as the competent authority has, in the impugned proceedings dated 26-12-1996, chosen to rely exclusively on Rule 73 and no reference has been made therein to the effect of absence of any other rule in this regard. Suffice to note that the requirement in Rule 73, in determining seniority on the basis of age, is not a rule of universal

application. The Rules, in various departments, prescribe inter-se merit as the criteria for determining inter-se seniority of employees appointed on the same day, while some other set of rules prescribe educational qualifications as the criteria. In any event, these are all matters for the competent authority to decide and not for this Court to go into. Suffice to hold that Rule 73 has no application while determining inter-se seniority of District Co-operative Central Bank employees. The impugned order dated 26-12-1996 is set aside.

The first respondent shall call for objections, intimate the rules which would apply in determining inter-se seniority of employees of District Co-operative Central bank and, thereafter, finalise the seniority list in accordance with law. The entire exercise in this regard shall be completed within a period of four months from the date of receipt of a copy of this order. Since there was no stay during the pendency of the writ petition it is, but, appropriate that status quo as on today be maintained pending finalisation of the seniority list by the first respondent.

The writ petition is, accordingly, allowed. However, in the circumstances, without costs.

_____

26-09-2007

usd